



General Assembly

Amendment

February Session, 2012

LCO No. 3238

HB0534403238HD0

Offered by:

REP. BERGER, 73rd Dist.

REP. CAMILLO, 151st Dist.

SEN. LEBEAU, 3rd Dist.

SEN. FRANTZ, 36th Dist.

REP. SERRA, 33rd Dist.

To: Subst. House Bill No. 5344

File No. 311

Cal. No. 252

**"AN ACT CONCERNING STREAMLINING THE STATE'S
STORMWATER GENERAL PERMITTING PROCESS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 22a-430b of the general statutes is repealed and
4 the following is substituted in lieu thereof (*Effective from passage*):

5 (a) (1) The Commissioner of Energy and Environmental Protection
6 may issue a general permit for a category or categories of discharges
7 regulated pursuant to section 22a-430, except for a discharge covered
8 by an individual permit. The general permit may regulate, within a
9 geographical area: ~~[(1)]~~ (A) A category of discharges which involve the
10 same or substantially similar types of operations, involve the same
11 type of wastes, require the same effluent limitations, operating

12 conditions or standards, and require the same or similar monitoring
13 and which in the opinion of the commissioner are more appropriately
14 controlled under a general permit; [(2)] (B) stormwater discharges; or
15 [(3)] (C) a category of discharges not requiring a permit under the
16 federal Water Pollution Control Act. Any person or municipality
17 conducting an activity covered by a general permit shall not be
18 required to apply for or obtain an individual permit pursuant to
19 section 22a-430, except as provided in subsection (c) of this section. The
20 general permit may require that any person or municipality initiating,
21 creating, originating or maintaining any discharge into the waters of
22 the state under the general permit shall register such discharge with
23 the commissioner before the general permit becomes effective as to
24 such discharge. Registration shall be on a form prescribed by the
25 commissioner.

26 (2) When issuing a general permit pursuant to this section, the
27 commissioner may require the submission of a certification that the
28 requirements of such general permit have been met by a qualified
29 professional. Any general permit requiring such certification shall
30 specify: (A) The qualifications necessary to define a qualified
31 professional. Such qualifications may include education, training,
32 experience or the attainment of a credential or license that such
33 qualified professional must have obtained. If such qualifications do not
34 require a license, the commissioner shall describe the rationale for not
35 having such a requirement in a publically available fact sheet or
36 similar document when proposing the issuance of the applicable
37 general permit pursuant to subsection (b) of this section; (B) the criteria
38 to ensure that a qualified professional is independent and does not
39 have a conflict of interest in making a certification, provided
40 reasonable compensation for services rendered in making a
41 certification shall not be deemed a conflict of interest; (C) the
42 information to be reviewed or inspections to be conducted by such
43 qualified professional as a basis for making a certification; (D)
44 documents that shall be retained in connection with a certification; (E)
45 the standards or requirements for an activity or project that a qualified

46 professional must affirmatively determine have been met; (F) the terms
47 of a statement to be signed by such qualified professional, including
48 any conditions necessary for providing such statement; (G) any other
49 information or condition deemed necessary by the commissioner
50 regarding a certification; and (H) whether the submission of a
51 certification shall be required when the person seeking coverage under
52 the general permit is a governmental entity, including a federal, state
53 or municipal entity. Nothing in this section shall authorize a qualified
54 professional to engage in any profession or occupation requiring a
55 license under any other provision of the general statutes without such
56 license. The commissioner shall not require such certification if such
57 certification would violate the federal Water Pollution Control Act of
58 the federal Safe Drinking Water Act.

59 (b) Notwithstanding the provisions of chapter 54, a general permit
60 shall be issued, renewed, modified, revoked or suspended in
61 accordance with the standards and procedures specified for an
62 individual permit, in accordance with section 22a-430 and any
63 regulations adopted thereunder, except that (1) summary suspension
64 may be ordered in accordance with subsection (c) of section 4-182; (2)
65 any proposed or final general permit and notice thereof may address
66 persons or municipalities which are or may be covered by the general
67 permit as a group, describe the facilities which are or may be covered
68 by the general permit in general terms; and (3) upon issuance of a
69 proposed or final general permit, the commissioner shall publish
70 notice thereof in a newspaper of substantial circulation in the affected
71 area. General permits shall be issued for a term specified by the permit
72 and such terms shall be consistent with the federal Water Pollution
73 Control Act and shall be subject to the provisions of section 22a-431.
74 Such permits shall: [(1)] (A) Describe the category of discharge
75 regulated by the general permit; [(2)] (B) specify the manner, nature
76 and volume of discharge; [(3)] (C) require proper operation and
77 maintenance of any pollution abatement facility required by such
78 permit; and [(4)] (D) be subject to such other requirements and
79 restriction as the commissioner deems necessary to fully comply with

80 the purposes of this chapter, the federal Water Pollution Control Act
81 and the federal Safe Drinking Water Act. Any construction or
82 modification of a pollution abatement facility or disposal system which
83 is undertaken pursuant to and in accordance with a general permit
84 shall not require submission of plans and specifications to or approval
85 by the commissioner, unless required pursuant to the terms of the
86 general permit.

87 (c) Subsequent to the issuance of a general permit, the commissioner
88 may require a person or municipality initiating, creating, originating or
89 maintaining any discharge which is or may be authorized by a general
90 permit to obtain an individual permit pursuant to section 22a-430 if the
91 commissioner determines that an individual permit would better
92 protect the waters of the state from pollution. The commissioner may
93 require an individual permit under this subsection in cases including,
94 but not limited to the following: (1) When the discharger is not in
95 compliance with the conditions in the general permit; (2) when a
96 change has occurred in the availability of a demonstrated technology
97 or practice for the control or abatement of pollution applicable to the
98 discharge; (3) when effluent limitations and conditions are
99 promulgated by the United States Environmental Protection Agency or
100 established by the commissioner under section 22a-430 for discharges
101 covered by the general permit; (4) when a water quality management
102 plan containing requirements applicable to such discharges is
103 approved by the United States Environmental Protection Agency; (5)
104 when circumstances have changed since the issuance of the general
105 permit so that the discharger is no longer appropriately controlled
106 under the general permit, or a temporary or permanent reduction or
107 elimination of the authorized discharge is necessary; (6) when the
108 discharge is a significant contributor of pollution, provided that in
109 making this determination, the commissioner may consider the
110 location of the discharge with respect to waters of the state, the size of
111 the discharge, the quantity and nature of the pollution discharged to
112 waters of the state, cumulative impacts of discharges covered by the
113 general permit and other relevant factors; or (7) when the requirements

114 of subsection (a) of this section are not met. The commissioner may
115 require an individual permit under this subsection only if the affected
116 person or municipality has been notified in writing that a permit
117 application is required. The notice shall include a brief statement of the
118 reasons for the commissioner's decision, an application form, a
119 statement setting forth a time for the person or municipality to file the
120 application, and a statement that on the effective date of the individual
121 permit the general permit as it applies to the individual permittee shall
122 automatically terminate. The commissioner may grant additional time
123 upon the request of the applicant. If the affected person or
124 municipality does not submit a complete application for an individual
125 permit within the time frame set forth in the commissioner's notice or
126 as extended by the commissioner in writing, then the general permit as
127 it applies to the affected person or municipality shall automatically
128 terminate. Any interested person or municipality may petition the
129 commissioner to take action under this subsection.

130 (d) (1) When submitting a certification pursuant to this section, a
131 qualified professional shall ensure that such certification complies with
132 the general permit that requires such certification. Compliance with a
133 general permit shall include any matter specified in such permit
134 pursuant to subdivision (2) of subsection (a) of this section. The
135 commissioner shall accept a certification when submitted with a
136 registration for a general permit, unless (A) the certification is the
137 subject of an audit pursuant to subsection (e) of this subsection; or (B)
138 the commissioner has reason to believe that the certification does not
139 comply with the requirements of the general permit, including any
140 matter specified in the general permit pursuant to subdivision (2) of
141 subsection (a) of this section.

142 (2) Any qualified professional who submits a certification pursuant
143 to this section shall promptly notify, in writing, the commissioner and
144 the person who would obtain or has obtained coverage under the
145 general permit based upon such certification if, during the normal
146 course of a qualified professional's practice, such professional learns,
147 or should have learned, of information that would significantly affect

148 or prevent such professional's decision to have made such certification.
149 Such notification shall be made not later than fifteen days after a
150 qualified professional learns of such information and shall identify the
151 certification and the reasons such qualified professional is submitting
152 notice pursuant to this subdivision.

153 (e) The commissioner may audit any certification submitted by a
154 qualified professional pursuant to this section. As part of such audit,
155 the commissioner may request any information the commissioner
156 deems necessary to conduct such audit from either the person who
157 would obtain or has obtained coverage under the general permit based
158 upon such certification or the qualified professional submitting the
159 certification. In addition, the commissioner may require independent
160 verification of all or any part of a certification submitted by a qualified
161 professional. Such independent verification shall be performed by a
162 different qualified professional who: (1) Meets the requirements for a
163 qualified professional specified in the general permit; (2) does not have
164 a conflict of interest, provided reasonable compensation for providing
165 independent verification shall not constitute a conflict of interest; (3)
166 did not engage in any activities associated with the development,
167 preparation or review of any information on which the certification is
168 based; and (4) is not under the same employ of the person who
169 developed, prepared or reviewed any of the information on which the
170 certification is based. Such independent verification shall be at the
171 expense of the person who seeks or has obtained coverage under a
172 general permit. If an audit undertaken by the commissioner pursuant
173 to this subsection reveals that a certification was submitted in violation
174 of any requirement of the general permit, including any matter
175 specified in the general permit pursuant to subdivision (2) of
176 subsection (a) of this section, the commissioner may charge, and the
177 person who would obtain or has obtained coverage under the general
178 permit based upon such certification shall pay, for the reasonable costs
179 of conducting such audit.

180 [(d)] (f) The commissioner may adopt regulations in accordance
181 with the provisions of chapter 54 to carry out the purposes of this

182 section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-430b